

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

REALTIME DATA, LLC,

Plaintiff,

V.

Civil No. 6:08-cv-144

**PACKETEER, INC.,
BLUE COAT SYSTEMS, INC.,
CITRIX SYSTEMS, INC.,
EXPAND NETWORKS, INC.,
F5 NETWORKS, INC.,
7-ELEVEN, INC.,
ABM INDUSTRIES, INC.,
ABM JANITORIAL SERVICES –
SOUTH CENTRAL, INC.,
AVERITT EXPRESS, INC.,
BUILD-A-BEAR WORKSHOP, INC.,
DHL EXPRESS (USA), INC.,
INTERSTATE BATTERY SYSTEM OF
AMERICA, INC., AND
O'REILLY AUTOMOTIVE, INC.,**

Defendants.

ORDER

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. The Magistrate Judge issued a Memorandum Opinion and Order (Doc. No. 506) denying Plaintiff Realtime Data LLC's ("Realtime") Motion for Leave to File Amended Infringement Contentions (Doc. No. 322). The Magistrate Judge's Order has been presented for reconsideration. In the Motion for Reconsideration of its Motion for Leave to File Amended Infringement Contentions (Doc. No. 545) ("Motion"), Realtime asks the Court to reconsider the Order denying amendment to its Infringement Contentions arguing that it has shown

good cause and the Magistrate Judge erred in not allowing the proposed amendments. MOTION at 7–9. The Defendants in this case subsequently filed a series of Oppositions to Plaintiff’s Motion for Reconsideration: (1) Defendant Citrix Systems, Inc. (“Citrix Response”) (Doc. No. 572); (2) Defendants Blue Coat Systems, Inc., Packeteer, Inc., 7-Eleven, Inc., ABM Industries, Inc., ABM Janitorial Services – South Central, Inc., and Build-A-Bear Workshop, Inc. (collectively, “Blue Coat Defendants”) (“Blue Coat Response”) (Doc. No. 573); and (3) Defendants F5 Networks, Inc. and Averitt Express (“F5 Response”) (Doc. No. 604). In opposing Realtime, the Defendants collectively argue that the Motion for Reconsideration was unjustified, and the Magistrate Judge was correct in denying Realtime’s Motion because Realtime was not diligent in bringing the new contentions and because Defendants would be severely prejudiced if Realtime were permitted to amend. CITRIX RESPONSE at 1–3; BLUE COAT RESPONSE at 1; F5 RESPONSE at 3–4. Realtime has also filed a Reply in support of its Motion for Reconsideration (Doc. No. 607) and the Defendants Citrix Systems, Inc. and the Blue Coat Defendants have filed Surreplies (Doc. Nos. 618, 619).

Having considered the submissions before the Court, and for the reasons discussed in the Memorandum Opinion and Order of the United States Magistrate Judge, Realtime’s Motion for Reconsideration of its Motion for Leave to File Amended Infringement Contentions is hereby **DENIED** without prejudice to re-raising once the January trial is complete.

So ORDERED and SIGNED this 20th day of October, 2009.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE